

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

UNITED STATES OF AMERICA,

v.

Criminal Action No. 3:11CR54-02

JOSEPHINE ARTILLAGA ADAMS,

Defendant.

DEFENDANT JOSEPHINE ADAMS'S MOTION TO CONTINUE TRIAL

Comes now, Defendant, Josephine Artillaga Adams, by counsel, Brendan S. Leary, Assistant Federal Public Defender, and respectfully moves this Honorable Court to continue the trial in this case currently scheduled to commence on November 14, 2011. In support of this motion, Defendant states as follows:

1. Josephine Artillaga Adams is named in a 16-count superseding indictment returned in this Court on November 1, 2011, charging her with conspiracy to obstruct justice and obstruction of justice.
2. The Initial Scheduling Order set the trial of this matter for November 14, 2011.
3. At a final pretrial conference on November 7, 2011, this Honorable Court ruled that Mrs. Adams's co-defendant husband, Dr. Barton Joseph Adams, was not competent to testify at trial.
4. Mrs. Adams seeks to continue the trial until such time as her co-defendant husband is declared competent to testify. Mrs. Adams submits that she is of the belief that she cannot receive a fair trial unless her husband is afforded the opportunity to testify in person.
5. Mrs. Adams notes that the commencement of trial on November 14, 2011, violates her rights under the Speedy Trial Act. "Unless the defendant consents in writing to the contrary, the

trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se.” 18 U.S.C. § 3161(c)(2). On November 1, 2011, the grand jury issued a superseding indictment in this case. (See Docket number 53.) Mrs. Adams made her first appearance on the instant superseding indictment on November 7, 2011. Mrs. Adams has never consented in writing to a trial date of less than thirty days from the date of her first appearance. Therefore, the earliest that the trial of this matter could commence would be thirty days after her first appearance on November 7, 2011.

6. Other than stated in paragraph number five above, Mrs. Adams hereby waives all other rights under the Speedy Trial Act, 18 U.S.C. §§ 3161 - 3174.

WHEREFORE, Defendant, Josephine Artillaga Adams, respectfully requests that the Court continue the trial date and reschedule the trial until such time as her co-defendant is declared competent to testify.

Respectfully submitted,

JOSEPHINE ARTILLAGA ADAMS
By Counsel

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CERTIFICATION OF SERVICE

I hereby certify that on November 11, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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